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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/781,610

02/12/2001

Jonathan Stanley Harold Denyer

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05/30/2008

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EXAMINER

MENDOZA, MICHAEL G

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

05/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/781,610	Applicant(s) DENYER ET AL.	
	Examiner MICHAEL G. MENDOZA	Art Unit 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,7,8,12,13,16-21,39-41,44,47,48,51 and 52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,7,8,12,13,16-21,39-41,44,47,48,51 and 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/26/07, 1/30/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 13, 16-18, 20, 21, 39-41, and 44 are withdrawn in view of the newly discovered reference(s) to Anderson et al. 5237987.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

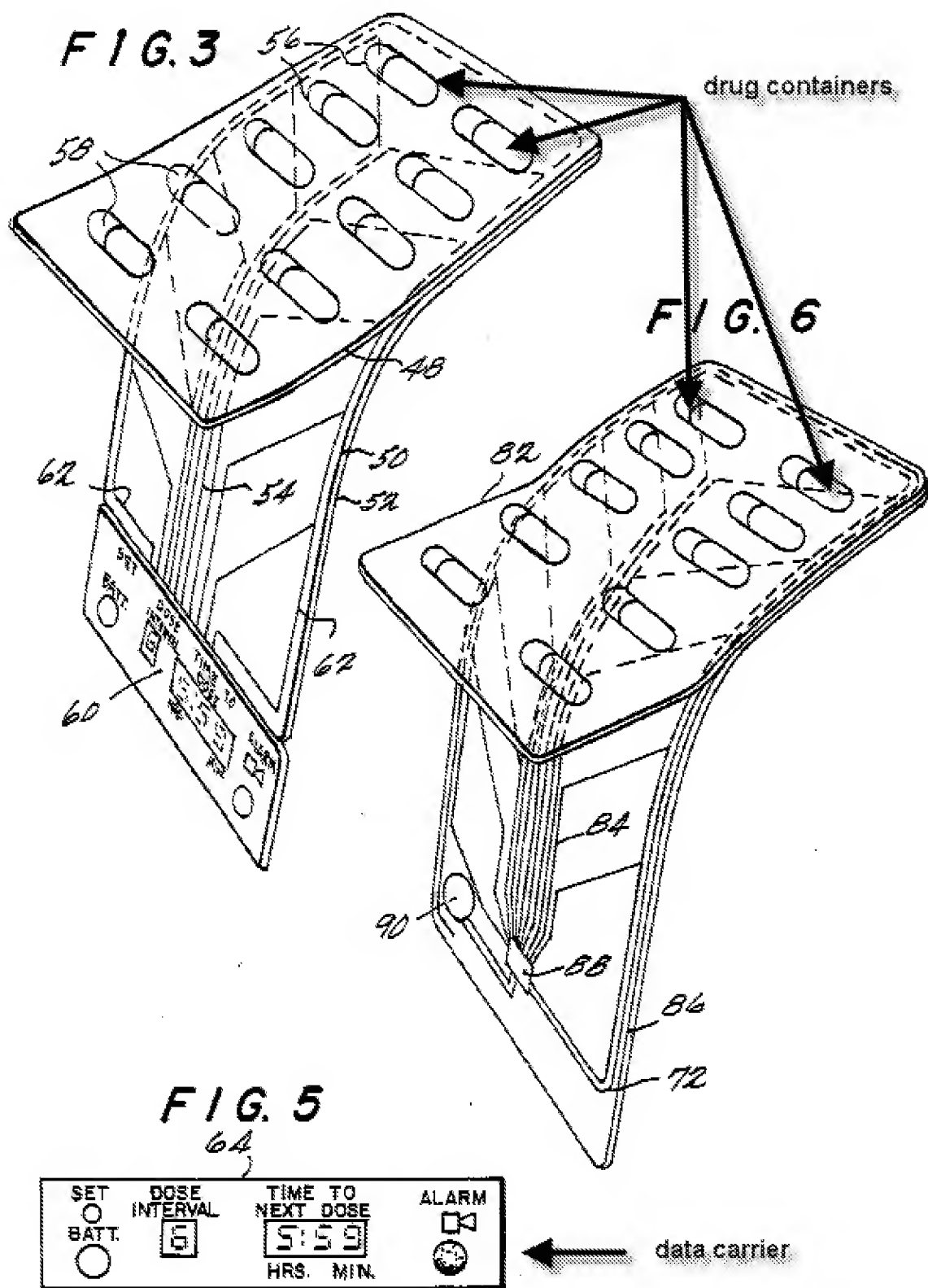
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 4, 8, 12, 19, 20, 39-41, 44, 47 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Gordon 4617557.

4. Gordon teaches a drug package comprising: a least one container containing a drug; an electronic data carrier including a memory, the electronic data carrier further includes a radio frequency device; wherein the electronic data carrier is arranged to supply the drug treatment information a number of times corresponding to the number of treatments available from the drug package, or the number of containers included in the drug package (col. 2, lines 22-30); wherein the at least one container is a plurality of containers and wherein the electronic data carrier is a single electronic data carrier; wherein the memory stores information; wherein the drug treatment information includes at least one of the following items: an identity of the drug which is to be delivered; a security code; a desired amount; a desired frequency of treatment; or an expiration date (col. 2, lines 22-30); wherein the data carrier is arranged to be powered inductively from

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a radio frequency signal (the data carrier of Gordon must receive radio frequencies in order to operate and is therefore powered inductively from a radio frequency signal).



Claim Rejections - 35 USC § 103

5. Claims 13, 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. 5237987 in view of Gordon.

6. As to claims 13 and 19, Anderson et al. teaches a drug delivery device; a delivery portion (52); an electronic input (228) arranged remotely from the delivery portion; and electronic data carrier removable from the drug delivery device (see claim 5); a delivery controller (28); a memory located within the electronic data carrier; and an output. It should be noted that Anderson et al. fails to teach transmitting treatment information via a radio frequency signal.

7. Gordon teaches a device with an output for transmitting treatment information via a radio frequency signal as opposed to the circuitry taught by Anderson et al. for transmitting information. Therefore, it would have been obvious to use a radio frequency signal as an alternative to circuitry for transmitting information because they are expedients of each other. Furthermore, wireless connectivity is well known in the art of electronics.

8. As to claims 16-18, 51, and 52, Anderson/Gordon teaches the device according to claim 13, wherein the drug delivery device includes an authorization portion (col. 12, lines 11-18); wherein the drug delivery device is selected from one of a pneumatic nebulizer, a piezo-electric nebulizer, or an ultrasonic nebulizer (Anderson is an air driven/pneumatic nebulizer).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL G. MENDOZA whose telephone number is (571)272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. G. M./
Examiner, Art Unit 3734

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3731